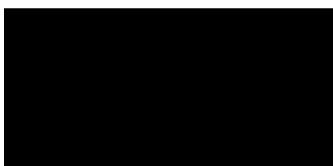


DOC/2019/02664-03

July 19, 2019



Dear [REDACTED]

Re: Your request for access to information under Part II of the *Access to Information and Protection of Privacy Act, 2015* [Our File #: MAE/132/2019]

On June 28, 2019, the Department of Municipal Affairs and Environment received your request for access to the following records/information:

- "1) Public Accounts 2018-19 - Contaminated Sites Liability Information Note 27-May-19.*
- 2) Little Bay Island's Relocation - Judicial Review Information Note dated 8-May-2019."*

I am pleased to inform you that a decision has been made by the Deputy Minister for the Department of Municipal Affairs and Environment to provide access to some of the requested information.

However, certain text contained within the records has been refused in accordance with the following exceptions to disclosure, as specified in the *Access to Information and Protection of Privacy Act, 2015 (the Act)*:

Section 30(1)(b): *"The head of a public body may refuse to disclose to an applicant information that would disclose legal opinions provided to a public body by a law officer of the Crown."*

As required by 8(2) of the *Act*, we have severed information that is unable to be disclosed and have provided you with as much information as possible. In accordance with your request for a copy of the records, the appropriate copies have been enclosed. Note, any pages withheld in its entirety have not been enclosed. As a result, pages 1-3 of the response have been withheld under section 30(1)(b).

Please be advised that you may appeal this decision and ask the Information and Privacy Commissioner to review the decision to provide partial access to the requested information, as set out in section 42 of the *Act* (a copy of this section of the *Act* has been enclosed for your reference). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner. Your appeal should identify your concerns with the request and why you are submitting the appeal.

The appeal may be addressed to the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John's, NL. A1B 3V8
Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the *Act* (a copy of this section of the *Act* has been enclosed for your reference).

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Completed Access to Information Requests website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please feel free to contact me by telephone at 709-729-7183 or by e-mail at ryancollins@gov.nl.ca.

Sincerely,



RYAN COLLINS
ATIPP Coordinator
Municipal Affairs and Environment

Enclosures

Access or correction complaint

42. (1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.
- (2) A complaint under subsection (1) shall be filed in writing not later than 15 business days
- (a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or
 - (b) after the date the head of the public body is considered to have refused the request under subsection 16(2).
- (3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.
- (4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.
- (5) The commissioner may allow a longer time period for the filing of a complaint under this section.
- (6) A person or third party who has appealed directly to the Trial Division under subsection 52(1) or 53(1) shall not file a complaint with the commissioner.
- (7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.
- (8) A complaint shall not be filed under this section with respect to
- (a) a request that is disregarded under section 21;
 - (b) a decision respecting an extension of time under section 23;
 - (c) a variation of a procedure under section 24; or
 - (d) an estimate of costs or a decision not to waive a cost under section 26.
- (9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

Direct appeal to Trial Division by an applicant

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner's refusal under subsection 45(2).

Information Note
Department of Municipal Affairs and Environment

Title: Public Accounts 2018-19 - Contaminated Sites Liability

Issue: The overall reported environmental liability estimate for Government owned and operated sites that are no longer in productive use and have environmental impacts is \$119,294,964 for twenty-one (21) PS3260 sites.

Background and Current Status:

- 192 impacted sites have been identified across government departments and agencies for the 2018-19 reporting period:

Department / Agency	Number of Sites 2014-15	Number of Sites 2015-16	Number of Sites 2016-17	Number of Sites 2017-18	Number of Sites 2018-19	Number of PS3260 Sites	Total Environmental Liability Estimates
Fisheries and Land Resources (FLR)	20	21	21	22	22	1	\$ 283,500
Health and Community Services (HCS)	4	5	5	6	7	3	\$ 60,000
Municipal Affairs and Environment (MAE)	18	18	17	17	17	7	\$ 16,230,470
Natural Resources (NR)	67	68	68	69	69	2	\$ 100,600,000
Tourism, Culture, Industry and Innovation (TCII)	2	3	4	4	4	1	\$ 1,150,994
Transportation and Works (TW) and Education and Early Childhood Development (EECD)	66	70	70	73	73	7	\$ 970,000
TOTAL:	177	185	185	191	192	21	\$ 119,294,964

- These sites have all been reviewed under the Impacted Sites Liability Assessment Program (ISLAP) to see if they meet the definition of an environmental liability under the PS3260 accounting standard as required for the 2018-19 financial reports.
- PS3260 generally only applies to inactive sites that have environmental impacts and generally excludes building demolition and hazardous materials abatement. Additionally, in order to be considered a liability under PS3260, five mandatory criteria must be met:
 1. An environmental standard must exist;
 2. Contamination must exceed the environmental standard;
 3. Government must be responsible or accept responsibility for remediation;
 4. It must be expected that economic benefits will be given up; and
 5. A reasonable estimate of the amount can be made.


Analysis:

- Due to the stringent nature of the five mandatory criteria, twenty-one (21) sites are currently considered liabilities at a total cost of \$119 million. These include:
 1. Former Salmonier Correctional Facility (FLR) - \$283,500
 2. Norman's Bay Former Health Clinic (HCS) - \$5,000
 3. Natuashish Mobile Home (HCS) - \$5,000
 4. Dr. Hugh Twomey Health Centre (HCS) - \$50,000
 5. Cartwright Former US Military Site (MAE) - \$62,000
 6. Hopedale Former US Military Site (MAE) - \$5,532,300
 7. North West Point Former US Military Site (MAE) - \$3,053,000

8. BOA Hunt Lake Former US Military Site (MAE) - \$889,920
 9. Border Beacon Former US Military Site (MAE) - \$4,913,410
 10. Harbour Lake Former US Military Site (MAE) - \$889,920
 11. Wild Boar Former US Military Site (MAE) - \$889,920
 12. Former Buchans Mine (NR) - \$23,900,000
 13. Former Consolidated Rambler Mine (NR) - \$76,700,000
 14. Marystown Shipyard (TCII) - \$1,150,994
 15. Former Swine Station, Portugal Cove-St. Philips (TW) - \$500,000
 16. Former Bellevue Transportation Depot (TW) - \$140,000
 17. Former private bus depot in Jeffrey's adjacent to 633A Main Street (TW) – \$50,000
 18. \$50,000
 19. Former Sandy Cove Depot (TW) - \$140,000
 20. Building 347 (4110) Massachusetts Drive Stephenville (TW) - \$25,000
 21. Western NL School Board Bus Depot, 300 O'Connell Drive, Corner Brook (EECD) - \$50,000
 22. St. Francis of Assisi School (EECD) - \$55,000
- The remaining 171 impacted sites are not considered liabilities for one or more of the following reasons:
 1. They are active and absent of an unexpected event (sudden tank failure, major spill, etc.),
 2. The impacts on the site do not exceed the applicable standards,
 3. Government is not responsible for remediation as the release happened before government owned the site so there is no automatic regulatory obligation to remediate; and/or
 4. It is not expected that money will be spent as government has no approved plans or timelines associated with the remediation.
 - The number of impacted sites and environmental liability estimate has increased over the last five years as participation in the program has improved, existing estimates have been updated, and assessment work to define liabilities have been completed. In 2017-18 the environmental liability estimate was \$96,086,050 for twelve (12) PS3260 sites, compared to 2018-19 where the estimate is \$119,294,964 for twenty-one (21) PS3260 sites.
 - MAE has advised the applicable government departments and agencies of their liabilities under ISLAP.
 - The respective departments have been advised to include these estimated costs when reporting their liabilities to the OCG for the 2018-19 public accounts reports.

Action Being Taken:

- MAE will continue to update the Provincial Impacted Sites Database and administer the ISLAP process on behalf of all departments and agencies reporting to the GNL Public Accounts.

Prepared/Approved by: K. Rebello / D. Pittman / S. Squires / J. Chippett 

Ministerial Approval:

June 4, 2019

